

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Dicerandra Immaculata* (Lakela's Mint)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for *Dicerandra immaculata* (Lakela's mint), a small shrub restricted to a few sites in Indian River and St. Lucie Counties, Florida. Residential and commercial development is a threat to the continued existence of this plant. This final rule provides the protection of the Endangered Species Act of 1973, as amended, to *Dicerandra immaculata*.

DATE: The effective date for this rule is June 14, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address (904/791-2580 or FTS 948-2580).

SUPPLEMENTARY INFORMATION:**Background**

Dicerandra immaculata (Lakela's mint) is a low-growing dome-shaped shrub of the mint family (Lamiaceae). The plants reach 38 centimeters (15 inches) in height, and bear erect flowers in small cymes at the tips of the stems. The spotless, lavender-rose to purplish (rarely white) corolla (petals) of the flower separates *Dicerandra immaculata* from other species of this genus occurring in the southeastern United States. *Dicerandra immaculata* was described by Lakela (1963) based on material collected in southern Indian

River County, Florida, in 1962. The species is restricted to coastal sand pine scrub vegetation in Indian River and St. Lucie Counties, Florida. Florida sand scrub habitats are found on relict dunes along former shorelines. The soils consist of highly drained, sterile sands.

In *Dicerandra immaculata* habitat, sand pine (*Pinus clausa*) forms an overstory, while oaks (*Quercus geminata*, *Q. virginiana*, and *Q. myrtifolia*) form an understory. Other small trees or shrubs found in this plant community include scrub hickory (*Carya floridana*), cabbage palm (*Sabal palmetto*), saw palmetto (*Serenoa repens*), hog plum (*Ximenia americana*), and tough bumelia (*Bumelia tenax*). Epiphytes (*Tillandsia fasciculata* and *T. recurvata*) are present. *Dicerandra immaculata* is one of the rarest plants known from the sand scrub community type. Rare animals found in *Dicerandra immaculata* habitat include the Florida scrub jay (*Aphelocoma c. coerulescens*) and the scrub lizard (*Sceloporus woodi*). The Florida scrub jay is considered a threatened species by the State of Florida; the scrub lizard is considered rare by the Florida Committee on Rare and Endangered Plants and Animals. Only 9 remaining sites of *Dicerandra immaculata* are known. The occur in an area 0.8 kilometer (0.5 mile) wide by 4.8 kilometers (3 miles) long in Indian River and St. Lucie Counties, Florida, between the cities of Vero Beach and Fort Pierce. The plants occur in the vicinity of 4 small sandhills with an elevation over 14 meters (45 feet), representing ancient coastal dunes. *Dicerandra immaculata* occurs on soil series of the Astatula, Paola, and St. Lucie sands. All known colonies occur on private property. The continued existence of this species is threatened by sand mining, commercial and residential development, and a fungal disease affecting the seeds.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. The Secretary of the Smithsonian presented this report (House Document No. 94-51) to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the Federal Register (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act (petition acceptance is now governed by Section 4(b)(3) of the Act, as amended). On June 16, 1976, the Service published a proposed rule in the Federal Register (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species

pursuant to Section 4 of the Act.

Dicerandra immaculata was included in the Smithsonian report, the July 1, 1975, notice of review, and the June 16, 1976 proposal.

The 1976 Endangered Species Act Amendments required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired (44 FR 70796); this withdrawal included *Dicerandra immaculata*. On December 15, 1980, the Service published a revised notice of review in the *Federal Register* (45 FR 82480); *Dicerandra immaculata* was placed in category 1 of this notice, meaning that the Service had substantial information supporting a proposed determination of endangered or threatened status.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments to the Act, further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Dicerandra immaculata* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Dicerandra immaculata* was warranted, and that, although other pending proposals had precluded proposal of *Dicerandra immaculata*, expeditious progress was being made to add the species to the list. This finding was published in the *Federal Register* on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to Section 4(b)(3)(c)(i). In the *Federal Register* of July 23, 1984 (49 FR 29632), the Service published a proposal to list *Dicerandra immaculata* as an endangered species. Publication of the proposal constituted the finding, required by October 13, 1984, that the petitioned action was warranted.

Summary of Comments and Recommendations

In the July 23, 1984, proposed rule (49 FR 29632) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted

and requested to comment. Newspaper notices were published in the Fort Pierce, Florida *News Tribune* on August 9, 1984; and in the Vero Beach, Florida *Press-Journal* on August 27, 1984. These newspaper notices invited general public comments. Fifteen comments were received, and are discussed below.

The proposal was supported by the Threatened Plants Unit of the International Union for Conservation of Nature and Natural Resources, the Florida Game and Fresh Water Fish Commission, Florida's Treasure Coast Regional Planning Council, and the Florida Native Plant Society, as well as two local chapters of this organization. The Florida Department of Agriculture and Consumer Services indicated that *Dicerandra immaculata* would be recommended for State listing as endangered in the 1985 legislative session. The Indian River County Chief of Environmental Planning supported the concept of listing *Dicerandra immaculata* but stated that the County had no mechanisms to preserve the plant. One individual expressed interest in cultivating *Dicerandra immaculata*. Two other persons expressed interest in the conservation of this species.

Three individuals commented on the continuing decline of *Dicerandra immaculata* due to commercial and residential development. One of these commenters suggested that road widening could adversely affect some of the remaining *Dicerandra immaculata* populations. The Service will consider this potential threat in reviewing future Federal activities in the area. The Federal Department of Transportation was notified of the proposed listing of *Dicerandra immaculata* as an endangered species, but no comments were received.

One landowner suggested transplanting as many plants as possible. The Service thinks that protection and maintenance of existing sites of *Dicerandra immaculata* would be the preferred means of conserving the plant. Failing this, transplantation and cultivation may be alternatives allowing for preservation of this species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Dicerandra immaculata* should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (to be codified at 50 CFR Part 424; see 49 FR 38900,

October 1, 1984) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Dicerandra immaculata* Lakela (Lakela's mint) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Dicerandra immaculata* is known only from a 0.8 kilometer (0.5 mile) by 4.8 kilometers (3 miles) area in Indian River and St. Lucie Counties, Florida, between the cities of Vero Beach and Fort Pierce. Since the time this species was proposed for listing, one of the 10 colonies then known has been destroyed by commercial development. Two sites have been partially destroyed by clearing for construction of houses. Two other colonies are threatened by sand mining. This commercial and residential development has occurred in the last 2 years; such activities are expected to continue in the near future, affecting most or all of the remaining colonies of *Dicerandra immaculata* (Austin *et al.*, 1980; Kral, 1983).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* *Dicerandra immaculata* is subject to mildew attack, which destroys the viability of the seeds before they are dispersed (Robinson, 1981).

D. *The inadequacy of existing regulatory mechanisms.* No existing Federal, State, or local laws or regulations protect *Dicerandra immaculata* or its habitat. The State of Florida will consider placing *Dicerandra immaculata* on the State endangered plant list in 1985, pursuant to the Preservation of Native Flora of Florida Act (Section 581.185, Florida Statutes). This designation, however, would not protect the habitat of *Dicerandra immaculata*.

E. *Other natural or manmade factors affecting its continued existence.* Peninsular Florida has one of the highest human population growth rates in the United States. The current heavy development pressures on the limited uplands can be expected to intensify in the area in which *Dicerandra immaculata* occurs.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Dicerandra immaculata* as endangered. The few

remaining colonies of this species are continuing to decline and the plant is in danger of extinction throughout its range. Critical habitat is not being designated for *Dicerandra immaculata*; the reason for this decision is discussed in the following section.

Critical habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. This species is found only on small areas of privately-owned lands, where no Federal involvements are known at present. Publication of critical habitat descriptions and maps in the **Federal Register** could attract attention to the limited area where *Dicerandra immaculata* occurs, subjecting the remaining sites to vandalism. The resultant attention could also encourage increased trespassing and frustrate property owners. Should future Federal activities take place in the area in which *Dicerandra immaculata* occurs, the Service feels that such activities will be brought to the Service's attention without the designation of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to

jeopardize the continued existence of a listed species or result in the destruction or adverse modification of its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal involvements affecting *Dicerandra immaculata* are known at this time.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Dicerandra immaculata*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Dicerandra immaculata* is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Since *Dicerandra immaculata* is not presently known to occur in any area under Federal jurisdiction, this prohibition will not apply. Requests for copies of the regulations on plant and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the

Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (46 FR 49244).

Literature Cited

- Austin, D.F., C.E. Newman, and B.E. Tatje. 1980. Endangered and threatened plant survey in southern Florida and the National Key Deer and Great White Heron National Wildlife Refuges, Monroe County, Florida. Report submitted to U.S. Fish and Wildlife Service, Atlanta, Georgia.
- Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plant of the South. Vol. II: Aquifoliaceae through Asteraceae. U.S.D.A. Forest Service Publication R8-TP2.
- Lakela, O. 1963. *Dicerandra immaculata* Lakela, sp. nov. (Labiatae). Sida 1(3):184-185.
- Robinson, A.F., Jr. 1981. *Dicerandra immaculata*. Status review prepared for U.S. Fish and Wildlife Service files. Jacksonville Endangered Species Field Station, Jacksonville, Florida.

Author

The primary author of this final rule is Dr. Michael M. Bentzien, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791-2580 or FTS 946-2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 et seq.).

2. Amend § 17.12(h) for plants by adding the following, in alphabetical order under *Lamiaceae*, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Lamiaceae—Mint family:						
<i>Dicerandra immaculata</i>	Lakela's mint.....	U.S.A. (FL).....	E	177	NA	NA

Dated: April 18, 1985.

J. Craig Potter,

*Acting Assistant Secretary for Fish and
Wildlife and Parks.*

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